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COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS  
**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

MARGARETO PAUL CELLUCCI  
Governor

TRUDY  
Sec

DAVID B. ST  
Commis

February 2, 1998

Mary Cottrell, Secretary  
Massachusetts Dept. of Telecommunications and Energy  
100 Cambridge Street, 12th Floor.  
Boston, Massachusetts 02202

Dear Ms. Cottrell:

The Department of Environmental Protection ("DEP") is pleased to have this opportunity to comment on the Department of Telecommunications and Energy's (DTE) proposed regulations at 220 CMR 11.00. DEP has focused its comments on 11.06, the provisions regarding Information Disclosure Requirements.

We congratulate DTE on its efforts to promulgate these regulations under the very short timeframes provided by the Massachusetts legislature. We believe DTE has done an excellent job of balancing the complex and controversial issues raised in these regulations. We also know that many of these issues will evolve over time, and we welcome the opportunity to continue to work with DTE on these issues.

Our comments focus on three areas. First, we believe that DTE should formally indicate that an improved tracking system will be in place sometime in 1999 that will enable detailed emissions tracking, and supersede the system envisioned by these regulations. We request continued involvement in that process. Second, we strongly encourage DTE to design their disclosure system to differentiate between emissions from generators within New England and those from elsewhere. We have provided information documenting that emission characteristics of power generating systems outside New England are at least twice as polluting per unit of power produced as generation from within New England (see below). We believe this more detailed information on emission characteristics should be provided as part of public disclosure. Third, we want to continue to work with DTE on a tracking system that could allow Load-serving Entities (LSEs) to differentiate clean products from their portfolio average.

**This information is available in alternate format by calling our ADA Coordinator at (617) 574-6872.**

In addition, we strongly support the DTE's requirement that after the initial 3 months of operation, a Load-serving Entity must detail its resource portfolio and associated emissions characteristics retrospectively, rather than as prospective estimates. We also support the DTE's breakout of electricity-generating resources into imports, known resources, and system power. However, the DEP proposes that a more detailed system for identifying power resources and quantifying emissions be used in these regulations.

Under the auspices of the conference of New England Governors, and with funding from US EPA, state regulators around New England are meeting to design an emissions tracking system that we hope will be overlaid on the New England Independent System Operator (NE-ISO) settlement system. Given this effort, DTE should design these regulations to sunset once another system has been designed that can replace the system put in place by this regulatory scheme.

We suggest that Section 11.06 (3)(d) be rewritten to include the following language:

The basis for determination of resource portfolio, and for fuel and emissions characteristics as required in Section 11.06(3)(d)1., 2., and 3., shall terminate within six months of the date on which the Department, in cooperation with Department of Environmental Protection, establishes a more detailed information system to be instituted, and allows generators and marketers to use appropriate data from source(s) approved by DTE and DEP.

Regarding the difference in emissions from New England sources versus sources outside New England: Even at this time, more accurate information is available that reflects the emissions characteristics sought by the provisions of Section 11.06(3)(d). First, each year New England Power Pool (NEPOOL) is able to determine the total generation from suppliers within New England. The total emissions for this generation is available from state DEPs and EPA. Therefore, an average of nitrogen oxides, sulfur dioxides and carbon dioxide emissions (NO<sub>x</sub>, SO<sub>2</sub> and CO<sub>2</sub>) for this generation can be determined in lb/ MWh. DTE should require that this information be used for all system contracts that can be ascribed to NEPOOL members.

In addition, the total load consumed within NEPOOL's territory is known, and can be separated into the generation from sources within New England and the generation from outside New England, be that Hydro Quebec, New Brunswick or the tielines connecting New England with the New York power pool, or the Pennsylvania-New Jersey-Maryland powerpool. The total emissions for NEPOOL -based generation can be determined, and the average emission characteristics of generation outside New England can be determined. This information is available from state and US EPA databases and can be compared to generation information available from EIA reported information. Therefore, on an annual basis, NEPOOL or the NE-ISO, can determine the average emissions from sources outside NEPOOL in lb/MWh. Sources such as Hydro Quebec, with firm contracts to sell to New England sources may be included in the New England average, if appropriate.

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We have attached, for your review and comment, a chart prepared by DEP staff illustrating this information for 1996. The chart details the emissions for the twenty-two states included in EPA's "SIP call" on ozone transport. The emissions are compared to the annual generation in MWh for 1996 to calculate pounds of emissions per MWh. These numbers are most useful if used to compare the regional average for NEPOOL, with the average for the rest of the area included in EPA's SIP call. The average emission characteristics for states outside New England, for SO<sub>2</sub> and NO<sub>x</sub> show that emission averages are twice that of New England's. For CO<sub>2</sub>, the increase is roughly 50%.

Therefore, DEP recommends that DTE require LSEs using unspecified sources for their portfolios to report emissions characteristics assuming the average for states outside New England. If an LSE's generation within NEPOOL is too difficult to differentiate from their generation sources outside NEPOOL, then a weighted average of emissions of both averages should be used.

We suggest that language similar to the following be incorporated into the DTE's proposed regulations, perhaps into 11.06(2)(d)1.(d) (System power):

Generators required to disclose emissions under these regulations shall be required to use the average emissions characteristic of the weighted average of New England, and outside sources, for any generation that can not be attributed to unit contracts or other contractual arrangements. If the NEPOOL generation can be separated from the generation sources outside the Region, then the emissions average for the outside sources must only be used for that portion of generation that is not attributed to New England sources. If the characteristics of some generation based outside New England can be documented separately, then that additional information must be submitted to DTE and DEP for review and can be used once approved.

It appears that adding this requirement could also require some changes in 11.06(2)(d)3.(c).

Language such as that which follows should also be included in 11.06(2)(d)3.(d):

DTE, in consultation with DEP, shall publish the annual emission average to be used for sources within New England, and the average for sources outside New England on an annual basis in the second quarter of the calendar year for the previous calendar year. This average shall be used until the updated average is published.

Note: The New England ISO may be able to provide this information for the review and approval of DTE and DEP.

In addition, we suggest a refinement of the sample label included with the proposed DTE regulations. The bar chart for emissions, in addition to noting the New England average emissions level, should include a bar denoting the level a new source being permitted in New England would need to meet. Again, these levels are dramatically lower than the current average of emissions. For example, for NO<sub>x</sub>, this level is an order of magnitude lower. We would be happy to work with the DTE to set the levels representing permitted emission levels for new sources that could be shown on these labels.

Lastly, we are interested in evaluating a tracking system that could provide the verification for, and enforceability of, retrospective product-based labeling. The DEP is looking into this issue further at this time, and asks the DTE to do the same during this rulemaking. At a minimum, the DEP requests that the DTE include language to ensure that product-based labeling and verification will be evaluated periodically from the effective date of these regulations.

We appreciate the opportunity to comment on these proposed regulations and would be happy to provide any further clarification. Please feel free to call us to discuss any of our suggestions. We look forward to working with DTE to implement these regulations and a restructured electric industry in Massachusetts.

Sincerely,

David B. Struhs, Commissioner

cc:

Secretary Trudy Coxe, EOEa

Commissioner David O'Connor, DOER

Deputy Commissioner Allan Bedwell, DEP